

Superfund Overview

Superfund Subcommittee

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GENERAL OVERVIEW - OERR (Reed)

Origins/Legislative History

- Three hazardous waste sites in the late 1970s and early 1980s- Love Canal, Valley of the Drums and Times Beach– led to a heightened national awareness of the dangers to public health and the environment posed by such sites.
- Congress responded to this environmental and public health threat by passing the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980.
- CERCLA established a \$1.6 billion Hazardous Waste Trust Fund to pay for the costs of cleaning up abandoned or uncontrolled hazardous waste sites.
- Two bedrock principles of CERCLA are:

Protection of human health and the environment and
Polluters must pay.

Statutory Provisions- CERCLA

- CERCLA provides comprehensive authority for the government to act.
- EPA can respond to a “release” or “substantial threat” of a release of
 - a “hazardous substance” into the environment; or
 - “any pollutant or contaminant which may present an imminent and substantial danger to public health or welfare.”
- CERCLA defines “hazardous substances” by referring to other environmental statutes (for example, “toxic pollutants” under the Clean Water Act).
- While “pollutant or contaminant” are broadly defined and include any substance that “may reasonably be anticipated to cause death, disease, behavior abnormalities, cancer, genetic mutation, physiological malfunctions or physical deformations” (excludes petroleum and natural gas).
- EPA responses take one of two forms:
 - removals (primarily address environmental emergencies) or

remedial actions (long-term, permanent cleanups).

Statutory Provisions- SARA

- Congress reauthorized Superfund in 1986 after EPA's early experience in implementing CERCLA led to a realization that the problem of abandoned sites was much greater than originally understood.
- The Superfund Amendments and Reauthorization Act (SARA) strengthened the Superfund program by:
 - adding tough civil penalties for polluters;
 - defining and supporting a role for the public and communities;
 - setting clear and tough cleanup standards; and
 - giving the President authority to settle with polluters who are cleaning up their sites.

SARA significantly increased the taxing authority for Superfund from \$1.6 billion to \$8.5 billion.

Regulatory Structure

EPA created three major regulatory mechanisms under Superfund to establish cleanup standards and procedures.

The **National Contingency Plan** (NCP) is the primary regulation dictating CERCLA response actions; it tells EPA, the States and private parties what procedures to follow when selecting and conducting emergency removals and long-term cleanup actions.

The **Hazard Ranking System** (HRS) is a numerically-based screening system that uses information from initial, limited investigations to assess the hazards a site poses to human health and the environment.

The HRS score is the primary method for determining placement on the **National Priorities List** (NPL). It identifies the sites that are national priorities for receiving further investigations and long-term cleanup actions.

Administrative Reforms

- Beginning in the late 1980s, the Agency undertook several evaluations of the Superfund program.
- The result of those evaluations was the initiation of a series of administrative reforms aimed at revitalizing Superfund.
- EPA implemented three rounds of reforms consisting of almost 50 initiatives that improved the effectiveness of cleanups and increased enforcement fairness.
- These reforms included efforts to:
 - reduce litigation and transaction costs;
 - make cleanup decisions more cost-effective;
 - encourage the redevelopment of cleaned up sites;
 - get States, Tribes and communities more involved; and
 - encourage innovative technologies.

Budget Overview

- EPA's Superfund budget for 2002 is \$1.27 billion, excluding post-9/11 appropriations

Appropriations have been declining since Superfund's peak in 1991 (\$1.6 billion)

In 1999, the Superfund appropriation was reduced by \$100 million

- Approximately half of the Superfund appropriation is used to implement the Response program in the Regions; the remainder is used for:

Enforcement program, including Department of Justice support (13%)

Management support functions, e.g, finance, legal, inspector general, rent (11%)

Headquarters policy and implementation management (9%)

Brownfields and federal facility response programs (10%)

Research and development (3%)

Other federal agency support of the Superfund program (1%)

Budget Overview (continued)

Regional Superfund resources are used for a mix of site and non-site-specific purposes:

- Site assessment and National Priorities List additions
- Removal and counter-terrorism responses and preparedness
- Investigations, remedy selection and design, remedial construction
- Oversight of responsible party cleanup actions
- State and Tribal program development/support
- Community involvement
- Laboratory and other technical support
- Contract management
- Records and data management
- Payroll and equipment

Each year, Headquarters allocates resources among the Regions, based partly on historic use patterns, and partly on their site-specific planned needs

Budget Overview (continued)

EPA has generally been able to augment its annual resource allocation by recouping previously appropriated resources that were not expended (deobligations) due to the changing resource needs of projects over time

Deobligations have been a substantial source of resources in recent years, but the pool of funds available for deobligation is declining and such funds are becoming more difficult to retrieve

The largest discrete block of resources for which Regions use resources is Fund-financed construction (remedial action) to remove, contain, and/or treat contaminated media

The 2002 budget allocation remedial action is approximately \$220 million (excluding payroll and technical support costs)

Although Regions have flexibility in using these remedial action resources, they are commonly directed by Headquarters for use at specific sites, as identified by the Regions through an annual workplanning process

Budget Overview (continued)

Headquarters' priority for remedial actions is first to continue funding multi-year projects to allow them continue at an efficient pace

EPA uses a combination of risk and construction progress criteria to make decisions on what new projects to start with the remaining remedial action budget

Because EPA has a limited budget, large-scale construction projects (often mega-sites) must be funded at the expense of other construction projects or other parts of the response program (e.g., site assessment, investigations, State involvement)

For FY 2002, 80% of the resources requested by the Regions for ongoing construction projects was to be used at less than 20% of the total number of ongoing projects needing funding

Budget Overview (continued)

Because the resource needs of Fund-financed actions that are ongoing and ready to start exceed the current budget for remedial action, EPA must look for ways to stretch resources by:

- - Re-examining the accuracy of cost estimates
 - Spreading construction costs over time
 - Improving the coordination of project schedules to continue ongoing work rather than start projects with insufficient funds